

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
U.S. ENVIRONMENTAL PROTECTION AGENCY REGION III**

PERFORMANCE PARTNERSHIP AGREEMENT

I. Purpose, Benefits and Scope:

Since 1995, the U.S. Environmental Protection Agency (EPA) has supported the National Environmental Performance Partnership System (NEPPS). The purpose of the system is to develop partnership approaches between the States and EPA that would provide improved environmental outcomes, opportunities for joint goal setting and combined resource utilization, increased flexibility for states in targeting their environmental programs, and increased administrative benefits.

The Virginia Department of Environmental Quality (DEQ) and EPA have chosen to express their partnership efforts through Performance Partnership Agreements (PPA). This PPA will enable the DEQ and EPA to continue ongoing efforts to more effectively focus limited resources on programs and projects that will result in significant environmental and human health protections.

The Partners agree to use the strategic priorities established under this Agreement to enhance programmatic planning, environmental monitoring and permitting; to increase emphasis on efficiency, flexibility and innovative approaches in DEQ programs; and to increase emphasis on meaningful measurement of the environmental results of DEQ program activities. The Partners further agree that, as new grant and authorization agreements are developed between EPA and DEQ subsequent to the approval of this Agreement, those new agreements will reference – and be developed in accordance with – the priorities established under this Agreement. Such new or revised grant or authorization agreements will be incorporated by reference into this Agreement.

II. Agreement Partners:

This Agreement is entered into between the Commonwealth of Virginia Department of Environmental Quality and the U.S. Environmental Protection Agency Region III.

III. Strategic Priorities and Goals:

To support achievement of federal and state air quality goals, water quality goals, and waste management requirements, and to sustain Virginia's environment, communities and quality of life along with a growing economy, DEQ has adopted the following strategic priorities and goals in implementing its programs:

A. Program Capability

DEQ intends to continue to develop focused, more efficient programs to meet or exceed environmental standards.

B. Community Involvement

DEQ will continue work towards ensuring that the public and all stakeholders throughout the state are informed and engaged in the development and achievement of regional and statewide environmental objectives.

C. Develop an Outcome-Oriented Workforce and Culture

DEQ is working to establish an employee workforce with an environmental-results oriented culture. This is an essential component for promoting innovation, pollution prevention and Environmental Management System (EMS) as integral elements of DEQ's strategies for meeting the state's environmental goals.

D. Optimal Use of Current and New Resources

As part of the effort to ensure the most effective use of scarce resources to achieve the state's environmental goals, DEQ will work with EPA to take further steps toward program and grant integration under the framework of NEPPS (i.e., PPAs and Performance Partnership Grants). The long-term goal is to develop a holistic approach to improving Virginia's environment and assuring that media programs operate so that their efforts are complementary.

IV. Strategies Supporting the Priorities and Goals:

A. Innovative/Flexible Approaches to Environmental Management

DEQ intends to work to bring innovative strategies and initiatives into the mainstream. DEQ and EPA will pursue innovative approaches to environmental protection, both through integration of more flexible environmental management into core regulatory program activities and through continued development of voluntary programs (such as the Virginia Environmental Excellence Program) to promote and recognize excellence by organizations taking a leadership role in helping to protect our state's environment.

B. Pollution Prevention

DEQ promotes pollution prevention (P2) approaches as the preferred method for achieving environmental goals and facility compliance with environmental regulations. By emphasizing elimination of the sources of pollution, focusing on inherently multimedia pollution reduction strategies and avoiding management techniques that may inadvertently transfer pollutants between media, P2 approaches provide the opportunity to achieve superior environmental performance, often at lower cost. DEQ will take steps to promote and incorporate P2-based strategies into both its regulatory and voluntary program activities.

C. Environmental Management Systems for Promoting Environmental Excellence

DEQ will promote development and implementation of EMSs by facilities and organizations within the Commonwealth of Virginia. In addition, DEQ will place special emphasis on promoting a gradual transition from compliance-based EMSs to EMSs with broader environmental performance goals.

D. Measurement of Environmental Performance

DEQ will work with EPA to improve measures of success for both regulatory and non-regulatory program activities, focusing wherever feasible on environmental outcomes. DEQ will ensure that environmental results of both standard and innovative approaches are measured appropriately to determine environmental results.

V. Priority Areas of Emphasis:

For this third PPA, the Partners agree to target a limited number of priority areas of emphasis, building upon the priority areas from previous Agreements. Staff from both DEQ and EPA will be assigned to each priority area, and will be responsible for developing a baseline for measuring success and a strategy for the effective use of resources; implementing agreed upon commitments; and reporting progress on a semi-annual basis to Senior management. The following have been identified by the Partners as the areas of importance and focus for the PPA:

A. Area of Emphasis – Environmental Outcomes/Measurements

1. Work towards the identification of environmental indicators and measures, and the development of an appropriate support system(s) for data collection and reporting.
2. Continue working on the alignment of environmental results with the goals and objectives of the Partners' respective strategic plans.

B. Area of Emphasis - Burden Reduction/Simplify Reporting

Examine existing reporting transactions between state and federal programs (e.g., grant commitments) and identify specific reporting requirements that can be eliminated, streamlined, reduced and/or changed through new or improved reporting processes.

C. Area of Emphasis – Community Based Mitigation Projects

Identify opportunities to address ozone, PM non-attainment and toxics in communities of concern. This may include analytical work and clean diesel projects.

D. Area of Emphasis - Water Quality Management

1. *Source Water Protection*

- a. Continue to support regional source water protection activities, specifically the Potomac Partnership, to ensure a coordinated approach to regional water resources.
- b. Take advantage of information and resource sharing to reduce risk of Underground Storage Tanks (UST)-based contamination of drinking water sources for public water systems.
- c. Continue initiative with UST Program to match locational data for UST and well-head protection areas, using areas of co-location to set priorities for UST inspections.
- d. Address Polychlorinated Biphenyl (PCB) contamination in Virginia's water, with emphasis on the James River. VADEQ and EPA will participate in the interstate workgroup for the development and implementation of PCB Total Maximum Daily Load (TMDL) for the middle Potomac Basin.

2. *Wetlands* - Continue to address opportunities to improve wetland protection and enhancement in Virginia including increased inspections for permit compliance to prevent unpermitted impacts, as well as monitoring and reporting of wetland conditions. The Partners agree to meet on a regular basis to discuss and coordinate upcoming projects to assist with avoidance and minimization efforts.

3. *Chesapeake Bay* - Work towards the implementation of the Chesapeake Bay Tributary Strategies (e.g., NPDES permitting to limit nutrients, NPDES trading). EPA agrees to provide development and implementation assistance for the Chesapeake Bay Watershed Permitting and trading aspects of the new legislation.

E. Area of Emphasis – Air Quality

1. *Ozone and PM 2.5* – Identify specific opportunities to encourage implementation of innovative P2-Based technologies, including regulatory activities (e.g., BACT determinations)

2. *Air Monitoring Network*

- a. Continue upgrading and making modifications to the air monitoring network and instrumentation in line with EPA's national air monitoring strategy, and meet other air quality needs in the Commonwealth.

- b. Seek redesignation of any current nonattainment area, with improved air quality meeting the National Ambient Air Quality Standards.

F. Area of Emphasis - Innovation

1. *ERP initiative for VA UST Inspection Program* -With over 9,000 UST facilities to inspect, the VA-DEQ proposes a pilot project to examine opportunities to enable selected UST owners/operators to self-certify compliance using the draft EPA "UST ERP Workbook". This compliance tool would be tailored to Virginia with enhancements for on-line use similar to "Turbo Tax". Inspections by third parties will also be considered as an element of the project.
2. *Virginia Environmental Excellence Program (VEEP) and National Environmental Performance (NEPT)* – Work together to promote the development of the VEEP and NEPT in order to increase the emphasis on performance-based solutions to Virginia's environmental problems and to ensure increased adoption of Environmental Management Systems (EMS), pollution prevention-based techniques and innovative regulatory flexibility approaches. DEQ and EPA will also work together to implement the 2005 Virginia E4 legislation.
3. *Incentives for Low Inspection Priority* – Work cooperatively to implement an incentive for low inspection priority for routine inspections at NEPT facilities through the negotiation of the FY2006 and FY2007 grant work plans. For FY2006, the incentive will apply only to those NEPT facilities in good standing as of July 1, 2005; for FY2007, it will apply to those in good standing as of July 1, 2006.
4. *Process for Advancing Innovations* – Continue to be active participants in the workgroups created by the Innovations Action Council related to Performance Track and state performance-based programs.

G. Area of Emphasis – Federal Partnerships

1. *ECOS-DOD Sustainability Work Group* – Work together to identify opportunities for address DOD/Military Branch issues related to regulatory flexibility, sustainability, emerging contaminants, and encroachment.
2. *Virginia Regional Environmental Management System (VREMS)* – Work together to promote and expand membership in the VREMS with the goal of having this organization evolve into the statewide partnership for federal facilities in Virginia, and to serve as a mode for use in other states.
3. *Virginia Environmental Excellence Program and National Environmental Performance Track* – Assist and encourage federal facilities to apply for membership in the NEPT and VEEP programs.

H. Area of Emphasis – Enforcement

In recognition that the State Review Framework audit will be accomplished in the fall of 2006, the Partners agree to discuss any proposed recommendations made during the next appropriate PPA cycle.

I. Area of Emphasis – Coordination of Regulatory Program Activities

1. Continue to coordinate information on facilities potentially subject to the Spill Prevention, Control and Countermeasures (SPCC) rule. EPA will provide training to the state inspectors, upon request, regarding the new SPCC rule.
2. Following the established policy of “no surprises” between partners and to continue the facilitation of the productive, efficient, and collaborative working relationship between EPA and DEQ, EPA agrees to provide DEQ at least two weeks notice prior to: (1) EPA planned inspections of Virginia regulated facilities; (2) issuance of EPA administrative orders to Virginia regulated facilities; and (3) commencement of administrative litigation against Virginia regulated facilities. Where exigent circumstances require unplanned or emergency action by EPA, EPA will provide DEQ notice thereof as soon as is practicable.

J. Area of Emphasis - Criminal Investigation

Continue coordination of DEQ and EPA Criminal Investigation Division programs and staff assignments. DEQ Criminal Investigation Unit will coordinate and cooperate closely with EPA CID to maintain a criminal enforcement presence across Virginia.

K. Area of Emphasis – Children’s Health

Address opportunities for the development of activities that promote children’s health in the State of Virginia.

L. Area of Emphasis – Revitalization and Resource Conservation

1. Incorporate the concept of responsible development and facility/site revitalization.
2. Develop strategies through the Resource Conservation Challenge initiative to address areas such as electronic recycling, green chemicals, priority chemicals, etc.

M. Area of Emphasis -Training

Develop and implement training curricula for permit writers, inspectors and enforcement staff with an emphasis on new technology for pollution control and pollution prevention and EPA's enforcement guidance.

VI. Administering the Agreement:

The Partners agree to communicate on a regular basis; to conduct Leadership meetings with key officials to discuss overall progress of the activities outlined in the Agreement; and to lay the foundation for electronic, shared access to relevant information developed within this Agreement. The Partners shall assign lead staff contacts for each Area of Emphasis identified in the PPA. The lead staff contacts will be responsible for developing a baseline for measuring success, creating a strategy for effective use of resources, implementing agreed upon commitments, and reporting progress to Senior Management.

The Partners are committed to timely resolution of disputes. The Partners agree to treat the resolution process as an opportunity to improve joint efforts. Sincere attempts should be made to resolve disputes at the staff level. Where disputes cannot be resolved within a two-week period, each Partner shall elevate the issue to a higher equivalent level in comparable fashion in each organization.

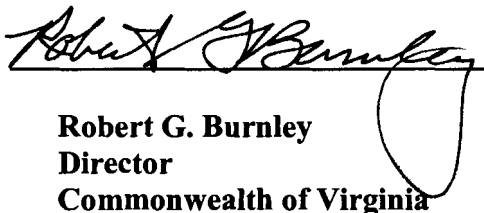
EPA and DEQ agree that nothing in this Agreement should be read or construed to abrogate or alter responsibilities, authorities and procedures conferred upon either Partner by statutes, regulation or delegation. Further this Agreement does not replace or supersede current grant or authorization agreements entered into previously between EPA and DEQ. It does, however, define principles and priorities for the development of future grant and authorization agreements between EPA and DEQ.

Finally, nothing in this Agreement shall impede either agency's authority. This document is intended solely as guidance for employees of EPA and DEQ. It is not a rule and does not create any legal obligations or rights.

VII. Time Frame

This Agreement covers the period from October 1, 2005 to September 30, 2007 unless amended or extended by mutual consent.

VIII. Responsible Officials:



Robert G. Burnley
Director
Commonwealth of Virginia
Department of Environmental Quality



Donald S. Welsh
Regional Administrator
U.S. Environmental Protection Agency
Region III